

Message Text

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12

ACTION EA-10

INFO OCT-01 ISO-00 MMS-01 AID-05 OMB-01 ACDA-05 TRSE-00

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FM AMEMBASSY MANILA

TO SECSTATE WASHDC IMMEDIATE 4573

LIMITED OFFICIAL USE SECTION 1 OF 2 MANILA 8332

E. O. 11652: NA

TAGS: RP, MASS, PFOR, PINS, PORS, SHUM

SUBJECT: CONGRESSIONAL INTEREST: HUMAN RIGHTS HEARINGS

REF: STATE 137733

FOLLOWING ARE SUGGESTED REPLIES KEYED TO FRASER'S
NUMERICAL QUESTIONS REFTEL:

1. THE DETERIORATING LAW AND ORDER SITUATION OF THE PHILIPPINES
IN THE WEEKS IMMEDIATELY BEFORE MARTIAL LAW AS DECLARED SUG-
GESTED TO MANY OBSERVERS THAT POSSIBLY DRASTIC REMEDIES
INCLUDING MARTIAL LAW, LIMITED OR GENERAL, MIGHT BE NEEDED.
THE EMBASSY, HOWEVER, WAS NOT CONSULTED ON THE DECISION.

2. THE USG TOOK NO PUBLIC POSITION ON MARTIAL LAW WHEN IT
WAS DECLARED AND IT HAS TAKEN NO PUBLIC POSITION SINCE,
BECAUSE THE USG HAS CONSISTENTLY HELD THAT MARTIAL LAW IN
THE PHILIPPINES IS AN INTERNAL MATTER ON WHICH IT WOULD BE
INAPPROPRIATE FOR THE USG TO COMMENT, ONE WAY OR THE OTHER.

3. THE USG ALSO CONSIDERS IT INAPPROPRIATE TO COMMENT ON
THE QUESTION OF WHETHER OR NOT MARTIAL LAW IN THE PHILIP-
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PINES IS REQUIRED TODAY. THE DECISIONS WHEN AND WHETHER

TO LIFT MARTIAL LAW MUST BE PHILIPPINE.

4. MANY OF THE PEOPLE CONGRESSMAN FRASER MET DURING HIS TRIP TO THE PHILIPPINES WERE MARCOS' OPPONENTS WHO HAVE AN EMOTIONAL OR POLITICAL STAKE IN BELIEVING THE U.S. APPROVED OF THE IMPOSITION OF MARTIAL LAW. MOREOVER, IT IS A POPULAR MYTH AMONG FILIPINOS THAT USG APPROVAL OF ANY MAJOR PHILIPPINE ACTION WILL HAVE BEEN SOUGHT. THAT IS OBVIOUSLY NOT REPEAT NOT TRUE; THE SAME FILIPINOS WHO MIGHT MAKE SUCH A SUGGESTION WOULD RESENT IT DEEPLY IF IT WERE. WHILE MUCH AWARE OF THIS PREDISPOSITION, USG HAS CONSIDERED IT AN APPROPRIATE TO EXPRESS A VIEW ONE WAY OR THE OTHER.

5. SINCE THE PROCLAMATION OF MARTIAL LAW THERE HAVE BEEN THREE NATIONAL REFERENDA. THE FIRST REFERENDUM WAS IN JANUARY 1973 WHEN FILIPINOS WERE ASKED TO RATIFY THE NEW CONSTITUTION. THE SECOND REFERENDUM WAS IN JULY 1973 AT WHICH TIME VOTERS OVERWHELMINGLY (90 PERCENT) APPROVED THE PROPOSITION THAT PRESIDENT MARCOS SHOULD CONTINUE EXERCISING MARTIAL LAW POWERS. THE FEBRUARY 1975 REFERENDUM POSED THREE QUESTIONS: (A) WHETHER VOTERS APPROVED MARCOS' EXERCISE OF MARTIAL LAW POWERS, (B) WHETHER MARTIAL LAW SHOULD CONTINUE, (C) WHETHER THE PRESIDENT SHOULD APPOINT LOCAL OFFICIALS WHOSE TERMS WERE SCHEDULED TO EXPIRE IN DECEMBER 1975. APPROXIMATELY 90 PERCENT OF THE VOTERS APPROVED THE FIRST TWO QUESTIONS AND 80 PERCENT (OUTSIDE THE METRO MANILA AREA) FAVORED THE PRESIDENT'S APPOINTMENT OF LOCAL OFFICIALS. WHILE THE THREE REFERENDA WERE CHARACTERIZED BY MASSIVE USE OF THE MEDIA AND GOVERNMENT MANIPULATION OF LOCAL ORGANIZATIONS TO ENSURE AN OVERWHELMING VICTORY FOR MARCOS' POSITION, IT IS GENERALLY CONCEDED THAT CONTINUED MAINTENANCE OF MARTIAL LAW WOULD HAVE BEEN APPROVED IN ANY CASE.

6. STATUS OF HUMAN RIGHTS.

(A) THE PHILIPPINES HAS NO LEGAL OR QUASI-LEGAL DEFINITION OF THE TERM POLITICAL PRISONERS. PRESIDENT MARCOS HAS STATED PUBLICLY THERE ARE NO POLITICAL PRISONERS IN THE PHILIPPINES, CONTENDING THAT ALL DETAINEES HAVE BEEN CHARGED LIMITED OFFICIAL USE

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WITH OFFENSES OF A CRIMINAL NATURE AND ARE AWAITING TRIAL. THE GOP TENDS TO CONSIDER THE TERM "POLITICAL PRISONERS" SYNONYMOUS WITH THE TERM "THREATENING THE STABILITY AND NATIONAL SECURITY OF THE PHILIPPINES." HOWEVER, THE GOVERNMENT DOES NOT USE THIS TERM WITH ANY DEGREE OF LEGAL PRECISION; NOR DOES IT PUBLISH FIGURES ON THE NUMBERS OF PERSONS DETAINED AS THREATS TO STABILITY AND SECURITY. THE NUMBER WITHIN THE BROAD CATEGORY IS GENERALLY BELIEVED

TO BE IN THE NEIGHBORHOOD OF 3,000. THE BULK OF THESE PRISONERS PROBABLY ARE MUSLIM REBELS, MEMBERS OF THE PEKING-LEANING NPA AND MEMBERS OF COMMUNIST FRONTS. THE REMAINDER, ESTIMATED AT ABOUT 10 PERCENT OR APPROXIMATELY 300, REPRESENTS THOSE DETAINEES WHO FALL WITHIN OUR MORE COMMONLY UNDERSTOOD DEFINITION OF POLITICAL PRISONERS.

THE GOVERNMENT HAS ATTEMPTED TO TRY ONLY ONE PRISONER IN THE LATTER CATEGORY, FORMER SENATOR BENIGNO AQUINO, JR. A SPECIAL COMMISSION IS NOW REINVESTIGATING CHARGES AGAINST TWO OTHER INDIVIDUALS CONSIDERED POLITICAL PRISONERS, EUGENIO LOPEZ, JR. AND SERGIO OSMENA III. EVEN IN THIS CONTEXT THE TERM "POLITICAL" PRISONER MAY BE MISLEADING. AQUINO HAS BEEN FORMALLY CHARGED WITH PROVIDING AID AND COMFORT TO THE COMMUNISTS AND HAS BEEN IMPLICATED IN A MURDER. LOPEZ AND OSMENA HAVE BEEN CHARGED WITH PARTICIPATION IN ASSASSINATION ATTEMPTS ON THE PRESIDENT.

WITH THE EXCEPTION OF THESE MEN AND A FEW OTHERS, THE GOVERNMENT'S PRACTICE HAS BEEN TO DETAIN INDIVIDUALS RELATIVELY BRIEFLY AND RELEASE THEM WHEN IT FEELS REASONABLY ASSURED THEY WILL REFRAIN FROM ANTI-REGIME ACTIVITY. NO OTHER POLITICAL PRISONERS HAVE BEEN TRIED, CONVICTED OR SENTENCED.

(B) AT THE OUTSET OF MARTIAL LAW, THE VAST MAJORITY OF PERSONS DETAINED, WHO WOULD FALL IN THE POLITICAL PRISONER CATEGORY WERE RELEASED WITHIN A FEW MONTHS. PERSONS SUBSEQUENTLY DETAINED ALSO HAVE BEEN RELEASED RELATIVELY QUICKLY. MOST POLITICAL PRISONERS HAVE HAD ACCESS TO THEIR FAMILIES FROM THE OUTSET OF THEIR DETENTION. ACCESS TO LAWYERS HAS BEEN CONSIDERABLY MORE RESTRICTED, BUT ALLOWED. HOWEVER, IF SUCH PRISONERS ARE TRIED BY A MILITARY COMMISSION THEY ARE PROVIDED A JUDGE ADVOCATE AS DEFENSE COUNSEL UNLESS THEY EMPLOY THEIR OWN ATTORNEY.

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(C) THERE HAVE BEEN ISOLATED REPORTED OF INSTANCES OF TORTURE OF POLITICAL PRISONERS. THESE INCIDENTS HAVE BEEN REPORTED PRIMARILY IN THE PROVINCES WHERE THE CONDITIONS OF DETENTION ARE NOT AS GOOD AS IN MANILA WHERE MOST POLITICAL PRISONERS ARE KEPT. WE HAVE NOT HEARD OF OTHER FORMS OF MISTREATMENT. THE ICRC TEAM, WHICH INSPECTED PHILIPPINE DETENTION CENTERS IN 1973 AND 1974, CHARACTERIZED THEM AS SATISFACTORY. THE CIVILIAN AND MILITARY LEADERSHIP OF THE ARMED FORCES HAVE STATED THEIR UNEQUIVOCAL OPPOSITION TO MALTREATMENT OF PRISONERS. THE DEPARTMENT OF NATIONAL DEFENSE HAS ALSO TAKEN STEPS TO REMOVE INDIVIDUALS ACCUSED OF TORTURE FROM THE SERVICE. HOWEVER, AS FAR AS WE KNOW, NO PERSONS HAVE BEEN CONVICTED FOR PRACTICING TORTURE.

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ACTION EA-10

INFO OCT-01 ISO-00 MMS-01 CIAE-00 DODE-00 PM-03 H-02

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O 180828Z JUN 75

FM AMEMBASSY MANILA

TO SECSTATE WASHDC IMMEDIATE 4574

LIMITED OFFICIAL USE SECTION 2 OF 2 MANILA 8332

E. O. 11652: NA

TAGS: RP, MASS, PFOR, PINS, PORS, SHUM

SUBJECT: CONGRESSIONAL INTEREST: HUMAN RIGHTS HEARINGS

(D) THE WRIT OF HABEAS CORPUS WAS SUSPENDED AS A RESULT OF THE DECLARATION OF MARTIAL LAW. THE PHILIPPINE SUPREME COURT VERIFIED AND UPHELD THIS ACTION IN DISMISSING SEVERAL HABEAS CORPUS PETITIONS PROTESTING MARTIAL LAW'S VALIDITY IN SEPTEMBER 1974. PERSONS SUSPECTED OF SUBVERSIVE BEHAVIOR, DEFINED AS VIOLATIONS OF CRIMINAL LAW ARTICLES 134-142 (REBELLION, SEDITION OR DISLOYALTY) OR OTHER PRESIDENTIAL DECREES ARE ARRESTED UNDER THE PROCLAMATION 1081 (DECLARING MARTIAL LAW), AND IN ACCORDANCE WITH GENERAL ORDER #2 (DIRECTING THE SECRETARY OF NATIONAL DEFENSE TO ESTABLISH THE COMMAND FOR THE ADMINISTRATION OF DETAINEES AND OUTLINING PROCEDURES FOR ARREST AND DETENTION) AND DEPARTMENT OF NATIONAL DEFENSE ORDER 726. ONCE ARRESTED, THE DETAINEE IS SUPPOSED TO BE REFERRED TO AN INQUEST OFFICER WITHIN 18 TO 72 HOURS. THIS OFFICER DETERMINES WHETHER PROBABLE CAUSE EXISTED FOR THE ARREST. IF THE DETERMINATION IS NEGATIVE, THE INDIVIDUAL IS RELEASED. IF IT IS POSITIVE, THE INDIVIDUAL IS CONSIGNED TO A DETENTION FACILITY.

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(E) THERE IS A LIMITED FREEDOM OF EXPRESSION IN THE PHILIPPINES. DURING THE INFORMATION CAMPAIGN PRIOR TO THE 1975 REFERENDUM OPPONENTS OF THE GOVERNMENT SPOKE TO CIVIC GROUPS AND ON UNIVERSITY CAMPUSES ALTHOUGH LITTLE OF THIS CRITICISM WAS CARRIED IN THE PRESS. THE MEDIA EXERCISE SELF-CENSORSHIP WHICH IN EFFECT MEANS THEY CARRY NOTHING CRITICAL OF THE GOVERNMENT AND ARE ESSENTIALLY CONTROLLED.

(F) TRADE UNIONISM IS ACTIVELY ENCOURAGED BY THE GOVERNMENT BUT UNDER MARTIAL LAW THE RIGHT TO STRIKE IS PROHIBITED. AS FAR AS WE ARE AWARE, THERE HAS BEEN NO ILO CRITICISM OF LABOR CONDITIONS IN THE PHILIPPINES. THE PHILIPPINE SECRETARY OF LABOR WAS ELECTED PRESIDENT OF THE INTERNATIONAL LABOR ORGANIZATION'S GENERAL CONFERENCE THIS YEAR. ALSO IN THE LAST 12 MONTHS A NEW LABOR CODE AND REGULATIONS HAVE BEEN PROMULGATED WHICH, WHEN FULLY IMPLEMENTED, SHOULD UPGRADE WORKING CONDITIONS THROUGHOUT THE PHILIPPINES.

(G) THE GOVERNMENT HAS NOT ACTIVELY ABRIDGED FREEDOM OF ASSOCIATION FOR EVEN ITS OUTSPOKEN CRITICS NOR HAS THE GOVERNMENT ATTEMPTED TO PREVENT OR DISRUPT PEACEFUL ASSEMBLIES, RALLIES, ETC. ALTHOUGH IT MONITORS THEM CAREFULLY AND ENSURES THEY RECEIVE LITTLE OR NO MEDIA COVERAGE. POLITICAL PARTIES HAVE BEEN INACTIVE SINCE THE INCEPTION OF MARTIAL LAW, BUT ONLY THE COMMUNIST PARTY IS OFFICIALLY BANNED.

7. THE EMBASSY HAS MADE REPEATED REPRESENTATIONS TO THE GOP ON HUMAN RIGHTS CONDITIONS AND ON NUMEROUS OCCASIONS HAS CALLED THE PHILIPPINE GOVERNMENT'S ATTENTION TO THE GREAT CONGRESSIONAL AND PUBLIC INTEREST IN POLITICAL DETAINEES. THE GOP RESPONSE HAS BEEN FORTHCOMING, BUT PHILIPPINE OFFICIALS HAVE MADE IT CLEAR THAT ALL CRIMINAL CHARGES AGAINST DETAINEES WILL BE FULLY INVESTIGATED AND PROSECUTED.

8. (WE UNDERSTAND FROM REFTEL THAT THERE IS ADEQUATE DATA IN WASHINGTON TO ANSWER THIS QUESTION).

9. THE EMBASSY WILL BE MOST INTERESTED IN READING THE LIMITED OFFICIAL USE

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REFERENCED REPORT WHEN RECEIVED. IT SHOULD BE NOTED AT THE OUTSET THAT UNDER MILITARY ASSISTANCE AGREEMENTS CONTINU-

OUSLY IN FORCE SINCE 1974 THE UNITED STATES HAS UNDERTAKEN THE OBLIGATION TO PROVIDE MILITARY ASSISTANCE TO THE PHILIPPINES. UNDER THESE AGREEMENTS MILITARY ASSISTANCE EXPLICITLY IS TAKEN TO MEAN "THE FURNISHING OF ARMS, AMMUNITION, EQUIPMENT AND SUPPLIES; CERTAIN AIRCRAFT AND NAVAL VESSELS, AND INSTRUCTION AND TRAINING" (TITLE II, ARTICLE 6, AGREEMENT OF MARCH 21, 1947). THIS OBLIGATION HAS REMAINED IN EFFECT TO THE PRESENT TIME SUBJECT ONLY TO VARIATIONS IN SPECIFIC LANGUAGE AND CHANGES OF LAW. THE OBJECTIVES OF U.S. MILITARY ASSISTANCE PROGRAMS IN THE PHILIPPINES INCLUDE ASSISTING THE GOVERNMENT OF THE PHILIPPINES IN THE MAINTENANCE OF INTERNAL SECURITY. THE PHILIPPINES CONTINUES TO FACE COMMUNIST INSURGENTS IN NORTH, CENTRAL AND SOUTHERN LUZON AND THE VISAYAS AS WELL AS MUSLIM IRREDENTISM IN MINDANAO AND THE SULU ARCHIPELAGO. IT IS IMPORTANT TO STRESS THAT THE MUSLIM INSURGENCY IS NOT BY ANY STRETCH OF THE IMAGINATION A MERE ANTI-MARTIAL LAW UPRISING. IT IS THE PRESENT MANIFESTATION OF A CENTURIES OLD RELIGIOUS AND ECONOMIC CONFLICT. WHILE U.S. GRANT MILITARY ASSISTANCE IS BEING USED BY THE PHILIPPINE GOVERNMENT ON CONTENDING WITH THESE INSURGENCIES, NO GRANT ASSISTANCE IS BEING PROVIDED BY THE U.S. TO SUPPORT POLICE FUNCTIONS. ALL SO-CALLED PUBLIC SAFETY PROGRAMS, AND THESE HAD BEEN CONFIED MAINLY TO COMMUNICATIONS ASSISTANCE IN RECENT YEARS, WERE PHASED OUT AT THE END OF FY 74.

THE MILITARY EQUIPMENT THE U.S. HAS PROVIDED THE PHILIPPINES THROUGH THE YEARS IS CONSISTENT WITH THAT USED BY OR IN SUPPORT OF A LIGHT INFANTRY FORCE. AFP UNITS FOLLOW STANDARD ANTI-INSURGENCY DOCTRINE AND TACTICS IN FIGHTING BOTH COMMUNIST AND MUSLIM INSURGENTS.

JUSMAG HAS HAD NO MILITARY ADVISORS IN THE FIELD SINCE 1969. NAPALM HAS NOT BEEN SUPPLIED TO THE GOP BY THE UNITED STATES FOR 15 YEARS, HOWEVER, THIS MATERIAL CAN BE EASILY PRODUCED IN MOST COUNTRIES. NEITHER THE C-119 CARGO PLANE NOR THE OV-10 GROUND SUPPORT PLANE HAS BEEN SUPPLIED TO THE PHILIPPINES.
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IN VIEW OF THE LONG-ESTABLISHED AND CONGRESSIONALLY-APPROVED OBJECTIVES OF THE SECURITY ASSISTANCE PROGRAM AND IN VIEW OF THE FACT THAT EVERY GOVERNMENT OF THE PHILIPPINES SINCE INDEPENDENCE HAS SOUGHT THIS ASSISTANCE, HAS ENTERED INTO OR PERPETUATED AGREEMENTS ON THIS SUBJECT, HAS HAD AND HAS EXERCISED EVERY OPPORTUNITY TO PLAN THE CONTEXT OF THIS PROGRAM AND HAS TAKEN SOLE RESPONSIBILITY FOR THE USE OF SUCH INPUTS, IT IS VERY DIFFICULT TO SEE

HOW A CHARGE OF MEDDLING IN PHILIPPINE DOMESTIC AFFAIRS
SERIOUSLY COULD BE MADE.

10. AS NOTED ABOVE THE PUBLIC SAFETY PROGRAM WAS PHASED
OUT AT THE END OF FY 74. THE OBJECTIVES OF THE U.S.
NARCOTICS PROGRAM IN THE PHILIPPINES, ASIDE FROM THE INTER-
DICTION OF NARCOTICS DESTINED FOR THE U.S., ARE TO SHARPEN
HOST GOVERNMENT AWARENESS OF DRUG PROBLEMS IN THE COUNTRY
AND, THROUGH SUPPLY OF EQUIPMENT AND TRAINING, TO UPGRADE
LOCAL PROGRAMS AND PERSONNEL INVOLVED IN THE ENFORCEMENT
OF ANTI-NARCOTICS CONTROLS AND LAWS. AT THE SAME TIME
OUR PROGRAMS AIM TO PREVENT THE PHILIPPINES FROM BECOM-
ING A SAFEHAVEN FOR PERSONS SEEKING TO ENGAGE IN DRUG
TRAFFIC TO THE UNITED STATES. (COMMODITY PROGRAMS WERE
DESCRIBED IN MANILA 4816). AUDIT OF THE PHILIPPINE PRO-
GRAM IS CONDUCTED BY MEMBERS OF THE PHILIPPINE DANGEROUS
DRUGS BOARD, THE NATIONAL POLICE COMMISSION, THE CONSTABULARY
ANTI-NARCOTICS UNIT, AND TWO U.S. GOVERNMENT OFFICERS:
THE USAID NARCOTICS ADVISER AND THE DEA LIAISON OFFICER.
THE PURPOSES OF INSPECTIONS BY THIS GROUP ARE TO ASSURE
THAT PERSONNEL WHO HAVE RECEIVED U.S.-FINANCED TRAINING
EITHER IN THE U.S. OR IN THE PHILIPPINES ARE BEING FULLY
UTILIZED ON NARCOTICS PROGRAMS IN PROJECT CITIES AND
AGENCIES, THAT U.S.-FURNISHED EQUIPMENT IS BEING USED
EXCLUSIVELY FOR PROGRAM PURPOSES AND TO BROADLY EVALUATE
THE PROGRAM ON A JOINT BASIS. MORE THAN 80 SUCH INSPEC-
TIONS OF PROJECT CITY PROGRAMS HAVE BEEN CONDUCTED SINCE
DECEMBER 1973. DETAILS OF THE HILAO CASE WERE PROVIDED
IN MANILA'S 7416 OF JUNE 21, 1974.
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